

Information Industry Association
September 20, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Implementation of the)
the Telecommunications Act of)
1996: Telemessaging, Electronic)
Publishing, and Alarm Monitoring)
Services)

CC Docket No. 96-152

REPLY COMMENTS OF THE
INFORMATION INDUSTRY ASSOCIATION

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**Reply Comments of the
Information Industry Association**

Summary

The Information Industry Association (IIA) hereby submits its reply to comments received in response to the Commission's Notice of Proposed Rulemaking¹ in this proceeding. In the initial commenting round, several parties addressed the issue of electronic publishing restrictions and the definition of what kinds of services are subject to the safeguards as set out in the new section 274 of the Communications Act of 1934, as added by the Telecommunications Act of 1996 (1996 Act).² As is set out in greater detail below, IIA believes that the safeguards should apply comprehensively to all types of electronic publishing services for all of the reasons mentioned herein.

¹ Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, CC Docket No. 96-149, Notice of Proposed Rulemaking (July 1, 1996) [hereinafter NPRM No. 96-149]. See, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§151 et seq.) [hereinafter 1996 Act].

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§151 et seq.) [hereinafter 1996 Act].

IIA is the leading trade association of more than 550 companies engaged in the generation, distribution, transmission and use of information products and services. IIA's members have been at the forefront of providing new information and telecommunications-related services to the public. Therefore, any proceeding which affects the composition of the information services market will have a direct impact on our members' services and competitiveness. We appreciate the opportunity to comment in this current proceeding.

Discussion

Due to the traditional monopoly advantage enjoyed by the BOCs in their respective regions, the FCC must vigorously enforce the structural separation requirements of Section 274 during the transition to a truly competitive market in order to facilitate the entry and development of new providers of electronic publishing services. (NPRM 96-152, paragraphs 35, 37, 39, 40, 42, 44, 46).

Section 274 of the 1996 Act prohibits a BOC or any affiliate from "engag[ing] in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service"³ for four years following the date of enactment of the Act.⁴ As the FCC has noted in this current NPRM, BOC entry into the provision of electronic publishing services may raise serious concern for consumers and competitors alike, due to the BOCs' existing monopoly power in providing local exchange and exchange access service.⁵ Because of this traditional monopoly power, BOCs may potentially discriminate in the provision of exchange access services and facilities to their competitors, or may improperly allocate costs from their electronic publishing services to their existing core business.

³ 1996 Act, Sec. 274 (a).

⁴ Id., at Sec. 274(g)(2).

⁵ NPRM No. 96-152, para 7.

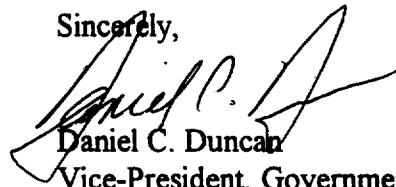
To guard against these harmful practices, while at the same time allowing consumers to reap the benefits of the BOCs' inherent efficiencies and advanced technologies, the safeguards of section 274 must be implemented and remain in place during the transition from a monopoly local exchange to a more competitive environment. This will also encourage members of the information industry to enter the electronic publishing market, thereby providing consumers with an array of new content based and information services at competitive prices.

By strictly enforcing all of these requirements, the FCC will ensure that unaffiliated information service providers and other providers of electronic publishing services are not unfairly disadvantaged and that any residue of the BOCs' monopoly will not interfere with the ability of information providers to develop and market new products and services. Furthermore, strict enforcement of the separate affiliate requirements will promote competition in the electronic publishing market, strengthen the role of the market as the arbiter of which services the public wants and needs, and effectively promote the development of innovative content-based products as stipulated in the 1996 Act, including interactive games other than those designed for entertainment.

Conclusion

IIA appreciates the Commission's willingness to solicit industry comments on the full range of issues raised by the electronic publishing provisions of the 1996 Act. In order to facilitate the entry of new providers of electronic publishing services, the FCC must scrupulously enforce the separate affiliate requirements of section 274 as prescribed by the 1996 Act, until such time as true competition exists in the local markets.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel C. Duncan", is written over the typed name.

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